THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO.32347 OF 1997

DATED: 19-02-2007

Between:-

Smt Kalavathi Bai

.. Petitioners

and

The Mandal Revenue Officer, Uppal Mandal, R.R. District and another.

.. Respondents

HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.32347 of 1997

ORDER:

This writ petition is filed seeking a mandamus to direct the respondents not to dispossess the petitioner from her peaceful possession and enjoyment of the land of an extent of Ac.3.39 cents in Sy.Nos.132 and 133 of Kothapet village, R.R. District.

The brief facts of the case are that the petitioner purchased an extent of Ac.3.39 cents of land in Sy.Nos.132 and 133 of Kothapet village by virtue of a registered sale deed dated 20.6.1966. Since then, she has been in uninterrupted possession of the said land. Thereafter, while she was constructing a building in her land, the 1st respondent-Mandal Revenue Officer, Uppal, initiated proceedings under Section 7 of the Land Encroachment Act (for short 'the Act') and issued a notice to her. Questioning the notice, the petitioner filed W.P.No.11575 of 1995 in which this Court was pleased to grant interim stay of her dispossession from the land in question. In spite of the interim stay, the respondents tried to dispossess her from the land. Then, she filed another W.P.No.17393 of 1997 against the action of the respondents, and this Court, on 13.07.1997, disposed of with a direction to the respondents to consider the reply submitted by the petitioner within four weeks from the date of receipt of a copy of the order and till final orders are passed, she shall not be dispossessed by the respondents. Pursuant to the directions of this Court, the 1st respondent-Mandal Revenue Officer appears to have held an enquiry

and passed an order on 09.08.1997 in proceedings No.B/586/97. As per the proceedings and according to the Mandal Revenue Officer, there was no encroachment. The relevant portion of the order passed by him is extracted as under:

> *"In pursuance of the above directions, the mater has been examined with reference to the records available. It is found that at the time of construction of house by her some boundary stones beyond the site purchased by her have been came into the Government land and hence a notice was issued to her under Section 7. Subsequently, the stones fixed have been removed and at present there is no encroachment of Government land in S.No.135 of Kothapet village by her as reported by the Village Assistant, Kothapet."*

Now, the grievance of the petitioner is that in spite of the order passed by the Mandal Revenue Officer, the revenue officials are threatening her with dire consequences.

Mr. Narayana Reddy, learned counsel for the 2nd respondent, produced certain documents before this Court to establish that the very sale deed registered vide Doc.No.1876 of 1966 dated 20.06.1966 is a fabricated one and at no point of time the land in question was registered and the Mandal Revenue Officer, without issuing any notice to the 2nd respondent and affording an opportunity of hearing, passed the order on 09.08.1997 in petitioner's favour and as such the said order cannot be acted upon. The learned counsel has also drawn my attention to an order dated 20.12.1997 made in I.A.No.1489 of 1997 in O.S.No.260 of 1997 wherein, the Court below was pleased to vacate an interim injunction that was granted earlier in favour of the petitioner.

In the light of the serious dispute raised by the learned counsel for the unofficial respondent, this Court is of the view that the Mandal Revenue Officer shall be directed to hold a discreet enquiry, after affording sufficient opportunity to the petitioner as well as the 2nd respondent to establish the facts.

Accordingly, this writ petition is disposed of with a direction to the 1st respondent-Mandal Revenue Officer to hold an enquiry, within a period of six weeks from the date of receipt of a copy of this order, and the parties are at liberty to put forth all their grievances before the Mandal Revenue Officer. Pending disposal of the enquiry, status quo as on the date of the interim orders passed by this Court i.e. on 04.12.1997 shall be maintained. There shall be no order as to costs.

GOPALA KRISHNA TAMADA, J

19th February, 2007
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